

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0540-MWD-E TCEQ ID: RN103051710 CASE NO.: 35651
RESPONDENT NAME: TYNAN WATER SUPPLY CORPORATION

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Approximately 250 feet southeast of State Highway ("SH") 359 and approximately 500 feet northeast of the intersection of SH 359 and Farm-to-Market Road 796, Bee County

TYPE OF OPERATION: Wastewater treatment plant

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on December 29, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Rudy Calderon, Litigation Division, MC 175, (512) 239-0205
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, Air Enforcement Section, MC R-4, (817) 588-5890

TCEQ Regional Contact: Mr. David Kennebeck, Corpus Christi Regional Office, MC R-14, (361) 825-3111

Respondent: Mr. Gerald Holubec, President, Tynan Water Supply Corporation, P.O. Box 115, Tynan, TX 78391

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p> <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review </p> <p>Date of Complaint Relating to this Case: N/A</p> <p>Date of Investigation Relating to this Case: February 25, 2008</p> <p>Date of NOE Relating to this Case: March 27, 2008</p> <p>Background Facts: The EDP RP was filed August 13, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDP RP on August 15, 2008. The Respondent failed to answer the EDP RP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>MWD:</p> <p>1. Failed to submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014123001, Monitoring and Reporting Requirements, No. 1].</p> <p>2. Failed to submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ14123001, Sludge Provisions].</p> <p>3. Failed to pay the Consolidated Water Quality Fees for Account No. 23005022 for fiscal year 2008 and associated late fees [30 TEX. ADMIN. CODE § 21.4 and TEX. WATER CODE § 5.702].</p>	<p>Total Assessed: \$26,750</p> <p>Total Deferred: \$0</p> <p> <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset </p> <p>Total Due to General Revenue: \$26,750</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor </p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor </p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Technical Requirements:</p> <p>The Respondent shall:</p> <p>1. Within 15 days:</p> <p>a. Submit the required DMRs for Outfall 001 for the monthly monitoring periods of February 2006 through December 2007; and</p> <p>b. Submit the annual sludge reports for the reporting periods ending July 31, 2006, and July 31, 2007.</p> <p>2. Within 30 days:</p> <p>a. Submit payment for all outstanding fees, including any associated penalties and interest; and</p> <p>b. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished.</p> <p>3. Within 45 days, submit written certification demonstrating compliance with Ordering Provisions above.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

DATES	Assigned	31-Mar-2008	Screening	1-Apr-2008	EPA Due	
	PCW	2-Apr-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Tynan Water Supply Corporation		
Reg. Ent. Ref. No.	RN103051710		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35651	No. of Violations	3
Docket No.	2008-0540-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Jorge Ibarra, P.E.
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$25,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **7% Enhancement** **Subtotals 2, 3, & 7** **\$1,750**

Notes: The Respondent was issued one NOV with the same/similar type of violations and one NOV without the same/similar type of violations.

Culpability **No** **0% Enhancement** **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0% Reduction** **Subtotal 5** **\$0**

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts **0% Enhancement*** **Subtotal 6** **\$0**
Approx. Cost of Compliance **\$356** ***Capped at the Total EB \$ Amount**
\$2,800

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$26,750**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$26,750**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$26,750**

DEFERRAL **Reduction** **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended because the respondent did not settle in a timely manner.

PAYABLE PENALTY **\$26,750**

Screening Date 1-Apr-2008

Docket No. 2008-0540-MWD-E

PCW

Respondent Tynan Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 35651

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN103051710

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent was issue one NOV with the same/similar type of violations and one NOV without the same/similar type of violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 7%

Screening Date 1-Apr-2008 Respondent Tynan Water Supply Corporation Case ID No. 35651 Reg. Ent. Reference No. RN103051710 Media [Statute] Water Quality Enf. Coordinator Jorge Ibarra, P.E. Violation Number 1 Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014123001, Monitoring and Reporting Requirements, No. 1 and 30 Tex. Admin. Code § 305.125(17) Violation Description Failed to submit monitoring results at the intervals specified in the permit. Specifically, failure to submit the required discharge monitoring reports ("DMRs") for Outfall 001 for the monthly monitoring periods of February 2006 through December 2007.	Docket No. 2008-0540-MWD-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision February 29, 2008</i>
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Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm			
		Major Moderate Minor			
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	X	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events <input type="text" value="23"/>	Number of violation days <input type="text" value="671"/>
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	daily				
<i>mark only one with an x</i>	monthly	<input type="text"/>	<input type="text"/>	<input type="text"/>	Violation Base Penalty <input type="text" value="\$23,000"/>
	quarterly	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	semiannual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	annual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	single event	<input type="text" value="X"/>	<input type="text"/>	<input type="text"/>	

Twenty-three single events are recommended, one for each of the 23 missing DMRs.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$302"/>	Violation Final Penalty Total <input type="text" value="\$24,610"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$24,610"/>	

Economic Benefit Worksheet

Respondent Tynan Water Supply Corporation

Case ID No. 35651

Reg. Ent. Reference No. RN103051710

Media Water Quality

Violation No. 1.

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,300	20-Mar-2006	1-Nov-2008	2.6	\$302	n/a	\$302

Notes for DELAYED costs

Estimated cost to submit the missing DMRs. Date Required is the date the first DMR was due, Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,300

TOTAL

\$302

Screening Date 1-Apr-2008

Docket No. 2008-0540-MWD-E

PCW

Respondent Tynan Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 35651

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN103051710

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s) TPDES Permit No. WQ0014123001, Sludge Provisions, and 30 Tex. Admin. Code § 305.125(17)

Violation Description Failed to submit monitoring results at the intervals specified in the permit. Specifically, failure to submit the annual sludge reports for the reporting periods ending July 31, 2006 and July 31, 2007 by September 1, 2006 and September 1, 2007, respectively.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

2

Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,000

Two events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$54

Violation Final Penalty Total \$2,140

This violation Final Assessed Penalty (adjusted for limits) \$2,140

Economic Benefit Worksheet

Respondent Tynan Water Supply Corporation

Case ID No. 35651

Reg. Ent. Reference No. RN103051710

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	1-Sep-2006	1-Nov-2008	2.2	\$54	n/a	\$54

Notes for DELAYED costs

Estimated cost to prepare and submit the required sludge report. Date Required is the first day of non-compliance, Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$54

Screening Date 1-Apr-2008

Docket No. 2008-0540-MWD-E

PCW

Respondent Tynan Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 35651

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN103051710

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 21.4 Texas Water Code § 5.702

Violation Description

Failed to pay Consolidated Water Quality Fees for Account No. 23005022 for fiscal year 2008 and associated late fees.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

No penalty is recommended because penalty and interest will be assessed at the next billing.

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events

Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

N/A

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Tynan Water Supply Corporation

Case ID No. 35651

Reg. Ent. Reference No. RN103051710

Media Water Quality

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	N/A	\$0
Record Keeping System				0.0	\$0	N/A	\$0
Training/Sampling				0.0	\$0	N/A	\$0
Remediation/Disposal				0.0	\$0	N/A	\$0
Permit Costs				0.0	\$0	N/A	\$0
Other (as needed)				0.0	\$0	N/A	\$0

Notes for DELAYED costs

N/A

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator:	CN600637649 TYNAN WSC	Classification: AVERAGE	Rating: 0.11
Regulated Entity:	RN103051710 TYNAN WATER SUPPLY WWTP	Classification: AVERAGE	Site Rating: 0.11

ID Number(s):	WASTEWATER PERMIT WQ0014123001		TX0119601
	WASTEWATER EPA ID TX0119601		
	WASTEWATER PERMIT TX0119601		
	WASTEWATER PERMIT WQ0014123001		
	WASTEWATER PERMIT TPDES0119601		

Location:	LOCATED APPROXIMATELY 250 FT SE OF SH 359 & APPROXIMATELY 500 FT NE OF THE INTERSECTION OF SH 359 & FM RD 796 IN BEE COUNTY TEXAS	Rating Date: September 01 07	Repeat Violator: NO
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TCEQ Region:	REGION 14 - CORPUS CHRISTI
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Date Compliance History Prepared:	April 04, 2008
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Agency Decision Requiring Compliance History:	Enforcement
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Compliance Period:	April 04, 2003 to April 04, 2008
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TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|---|------------|----------|
| 1 | 05/14/2003 | (31623) |
| 2 | 02/20/2004 | (390214) |
| 3 | 03/16/2004 | (390219) |
| 4 | 02/18/2005 | (390215) |
| 5 | 03/21/2005 | (390218) |
| 6 | 03/22/2006 | (453001) |
| 7 | 09/04/2007 | (607422) |
| 8 | 03/27/2008 | (636809) |

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/22/2006 (453001)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)

30 TAC Chapter 319, SubChapter A 319.7(c)

Rqmt Prov: PERMIT Monitoring Requirements 3c. (Page 5)

Description: Failure to maintain records of monitoring activities including: date, time and place of sample or measurement; identity of individual who collected the sample or made the measurement; date and time of analysis; identity of the individual and laboratory who performed the analysis; the technique or method of analysis; an

Date: 09/04/2007 (607422)

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TYNAN WATER SUPPLY
CORPORATION;
RN103051710**

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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2008-0540-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 5, 7, and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Tynan Water Supply Corporation ("Tynan WSC").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Tynan WSC owns and operates a wastewater treatment plant located at approximately 250 feet southeast of State Highway ("SH") 359 and approximately 500 feet northeast of the intersection of SH 359 and Farm-to-Market Road 796, Bee County, Texas (the "Facility").
2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any state water under the Texas Water Code.
3. During an investigation conducted on February 25, 2008, a TCEQ Central Office investigator documented that Tynan WSC:
 - a. Failed to submit monitoring results at the intervals specified in its permit. Specifically, Tynan WSC failed to submit the required discharge monitoring reports ("DMRs") for Outfall 001 for the monthly monitoring periods of February 2006 through December 2007.
 - b. Failed to submit monitoring results at the intervals specified in its permit. Specifically, Tynan WSC failed to submit the annual sludge report for the reporting

periods ending July 31, 2006 and July 31, 2007 by September 1, 2006 and September 1, 2007, respectively.

- c. Failed to pay the Consolidated Water Quality Fees for Account No. 23005022 for fiscal year 2008 and associated late fees.
4. Tynan WSC received notice of the violations on or about April 1, 2008.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Tynan Water Supply Corporation" (the "EDPRP") in the TCEQ Chief Clerk's office on August 13, 2008.
6. By letter dated August 13, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Tynan WSC with notice of the EDPRP. According to the return receipt "green card," Tynan WSC received notice of the EDPRP on August 15, 2008, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Tynan WSC received notice of the EDPRP, provided by the Executive Director. Tynan WSC failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Tynan WSC is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5, 7, and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Tynan WSC failed to submit monitoring results at the intervals specified in its permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014123001, Monitoring and Reporting Requirements, No. 1. Specifically, Tynan WSC failed to submit the required DMRs for Outfall 001 for the monthly monitoring periods of February 2006 through December 2007.
3. As evidenced by Finding of Fact No. 3.b., Tynan WSC failed to submit monitoring results at the intervals specified in its permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014123001, Sludge Provisions. Specifically, Tynan WSC failed to submit the annual sludge report for the reporting periods ending July 31, 2006 and July 31, 2007 by September 1, 2006 and September 1, 2007, respectively.

4. As evidenced by Finding of Fact No. 3.c., Tynan WSC failed to pay the Consolidated Water Quality Fees for Account No. 23005022 for fiscal year 2008 and associated late fees, in violation of 30 TEX. ADMIN. CODE § 21.4 and TEX. WATER CODE § 5.702.
5. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Tynan WSC with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 7, Tynan WSC failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Tynan WSC and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Tynan WSC for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of twenty-six thousand seven hundred fifty dollars (\$26,750.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Tynan WSC is assessed an administrative penalty in the amount of twenty-six thousand seven hundred fifty dollars (\$26,750.00) for violations of the Texas Water Code and the rules of the TCEQ. The payment of this administrative penalty and Tynan WSC's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this

Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Tynan Water Supply Corporation; Docket No. 2008-0540-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Tynan WSC shall undertake the following technical requirements:
 - a. Within 15 days after the effective date of this Order, Tynan WSC shall:
 - i. Submit the required DMRs for Outfall 001 for the monthly monitoring periods of February 2006 through December 2007; and
 - ii. Submit the annual sludge reports for the reporting periods ending July 31, 2006 and July 31, 2007.
 - b. Within 30 days after the effective date of this Order, Tynan WSC shall:
 - i. Submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "Tynan Water Supply Corporation – Financial Account No. 23005022" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P. O. Box 13088
Austin, Texas 78711-3087
 - ii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and annual sludge report, in accordance with TPDES Permit No. WQ0014123001, Monitoring and Reporting Requirements No. 1 and Sludge Provisions.
 - c. Within 45 days after the effective date of this Order, Tynan WSC shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. and

2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Tynan WSC shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and No. b. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

David Kennebeck, Water Section Manager
Texas Commission on Environmental Quality
Corpus Christi Regional Office
NRC Building, Suite 1200
6300 Ocean Drive, Unit 5839
Corpus Christi, Texas 78412-5839

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Tynan WSC. Tynan WSC is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Tynan WSC fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Tynan WSC's failure to comply is not a violation of this Order. Tynan WSC shall have the burden of establishing to the Executive Director's satisfaction that such

an event has occurred. Tynan WSC shall notify the Executive Director within seven days after Tynan WSC becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Tynan WSC shall be made in writing to the Executive Director. Extensions are not effective until Tynan WSC receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Tynan WSC if the Executive Director determines that Tynan WSC has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Tynan Water Supply Corporation
Docket No. 2008-0540-MWD-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF MARY R. RISNER

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Mary R. Risner. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Tynan Water Supply Corporation" (the "EDPRP") was filed with the Office of the Chief Clerk on August 13, 2008.

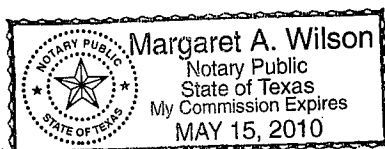
The EDPRP was mailed to Tynan WSC at its last known address on August 13, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Tynan WSC received notice of the EDPRP on August 15, 2008, as evidenced by the signature on the card.

More than 20 days have elapsed since Tynan WSC received notice of the EDPRP. Tynan WSC failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference."

Mary R. Risner
Mary R. Risner, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Mary R. Risner, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 16th day of NOVEMBER, A.D., 2008.



Margaret Wilson
Notary Signature